

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

KENNETH SCHIMWEG, et.al,)	
Plaintiffs,)	
)	
vs.)	Case No. 4:05CV416MLM
)	
ALAN TEITELBAUM, REBECCA)	
TEITELBAUM, ALAN TEITELBAUM, L.L.C.)	
& GREG LUBER,)	
Defendants.)	

ORDER OF DISMISSAL

This matter is before the court pursuant to Defendant Rebecca Teitelbaum's Motion for Reconsideration of Court's Denial without Prejudice of Defendant Rebecca Teitelbaum's Motion to Dismiss Counts I-V of Dismiss Plaintiffs' Second Amended Complaint. Doc. 31. Plaintiffs have not filed a Response. Plaintiffs and all parties served to date have consented to the jurisdiction of the undersigned United States Magistrate Judge pursuant to 28 U.S.C. § 636(c).

On June 8, 2005, the court issued an Order quashing purported service upon Defendants Alan Teitelbaum and Alan Teitelbaum L.L.C. , dismissing without prejudice claims against these parties, granting Plaintiffs until June 21, 2005, to file a second amended complaint, and ordering Plaintiffs to thereafter properly serve Defendants pursuant to the Federal Rules of Civil Procedure. Doc. 19.

On June 22, 2005, Plaintiffs filed a Second Amended Complaint. Doc. 20. On July 21, 2005, in a Memorandum Opinion, the court granted Defendant Rebecca Teitelbaum's Motion to Dismiss, with prejudice, Counts VI-VIII of Plaintiffs' Second Amended Complaint against Defendant Rebecca Teitelbaum, which counts included all federal claims against Defendant Rebecca Teitelbaum. Doc. 26. At that time the court declined to dismiss Plaintiffs' claims in Counts I-V which were based on

State law because Plaintiffs had not served Defendants other than Defendant Rebecca Teitelbaum and, as such, federal claims against Defendants other than Rebecca Teitelbaum remained pending.

On October 3, 2005, the court dismissed claims against Defendant Luber for failure to serve this defendant. Doc. 29. To date Plaintiffs have not submitted proper proof of service upon Alan Teitelbaum, who is deceased, or upon Alan Teitelbaum L.L.C. The court, therefore, will dismiss all claims against Alan Teitelbaum and Alan Teitelbaum L.L.C.

As such, the only claims which remain in this matter are Counts I-V of Plaintiff's Second Amended Complaint which are claims based on State law against Defendant Rebecca Teitelbaum. 28 U.S.C. § 1367 provides that a court may decline to exercise supplemental jurisdiction over remaining state law claims when it dismisses claims made pursuant to federal law. Franklin v. Zain, 152 F.3d 783, 785 (8th Cir. 1988). The court declines to exercise its supplemental jurisdiction over such claims.

Accordingly,

IT IS HEREBY ORDERED that Defendant Rebecca Teitelbaum's Motion for Reconsideration is **GRANTED**; (Doc. 31)

IT IS FURTHER ORDERED that Second Amended Complaint is **DISMISSED** in its entirety. (Doc. 20)

Dated October 20, 2005

/s/Mary Ann L. Medler
MARY ANN L. MEDLER
UNITED STATES MAGISTRATE JUDGE